

INTERNAL REVENUE SERVICE

Department of the Treasury

District
Director

CERTIFIED

PERSON TO CONTACT: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

REFER REPLY TO:

Internal Revenue Service
[REDACTED]

DATE: APR 06 1992

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED], under the nonprofit corporation laws of the State of [REDACTED].

Your organization's purposes as indicated in your Articles of Incorporation are to construct and maintain a golf course for its members; to promote and encourage golf and other athletic events; to promote and encourage the sport of golf and other recreational activities of its members; to promote sociability and friendship among its members and to manage and conduct entertainments and social meeting of its members.

Your primary activity is to operate and maintain a country club for the promotion and enjoyment of golf. Your club sponsors golf tournaments and sells food and beverages. All your activities are open to the general public.

The following statement appeared in your application:

Nonmembers are permitted to do everything members do, the only difference being that members pay an annual fee, and nonmembers pay a fee based on usage. The membership fee allows members to play golf and participate in club functions without paying green fees.

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According to the financial data submitted, your income is derived from membership fees, green fees, tournaments, food and beverages. Your primary expenses are salaries, maintenance of the golf course and rental payments.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations related to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(b) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals...."

You do not qualify for exempt status under Section 501(c)(3) because of a substantial amount of your activities are social and recreational in nature. In addition, you are carrying on a business with the general public in a manner similar to organizations which are operated for profit. These activities are outside the scope of exempt status under Section 501(c)(3) of the Code.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).


You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,


District Director

Enclosures:
Publication 892
Form 6018